

Agricultural Marketing Service, USDA

§ 979.106

issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 979.87 Duration of immunities.

The benefits, privileges and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 979.88 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 979.89 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 979.90 Personal liability.

No member or alternate member of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others in any way whatever, to any handler or to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate, agent or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ 979.91 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or

thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 979.92 Amendments.

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

§ 979.93 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.¹

§ 979.94 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 979.95 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of melons in the same manner as is provided for in this agreement.¹

Subpart—Rules and Regulations

GENERAL PROCEDURES

§ 979.100 Order.

Order means Order No. 979 (§§ 979.1 to 979.92; 44 FR 22038) regulating the handling of melons grown in South Texas.

[44 FR 28780, May 17, 1979]

§ 979.106 Registered handler.

For purposes of this part, a registered handler is a person who has

¹Applicable only to the proposed marketing agreement.

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adequate facilities for packing melons for market and who assumes initial responsibility for compliance with inspection, assessment, and other regulatory requirements on the handling of melons grown in the production area. Any person who wishes to become a registered handler shall make application for registration with the committee on forms furnished by the committee. If such applicant has facilities available which are determined by the committee as adequate for the packing of melons, such person may be approved as a registered handler. Growers who make deliveries of fieldrun melons to such registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

[44 FR 28780, May 17, 1979]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, § 979.106 was suspended, effective November 27, 2004 through September 30, 2005.

§ 979.110 Fiscal period.

The fiscal period which began on May 17, 1979 (44 FR 28780) shall end September 30, 1979. Thereafter, each fiscal period shall begin on October 1 of each year and end on September 30 of the following year.

[44 FR 56684, Oct. 2, 1979]

§ 979.112 Late payments.

Pursuant to § 979.42(f), late payments of assessments shall be subject to an interest charge of 1½ percent per month on the balance due. Assessments shall be deemed late 30 days after the billing date.

[55 FR 19720, May 11, 1990]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, § 979.112 was suspended, effective November 27, 2004 through September 30, 2005.

§ 979.122 Eligibility requirements for public members.

(a) A public member shall represent a nonagricultural point of view, and shall not have a financial (or economic) interest in, or be closely associated with the production, processing, financing or marketing of melons.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee ac-

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tivities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of the production area.

(d) Public members shall be nominated by the South Texas Melon Committee and shall serve a two-year term which coincides with the term of office of producer or handler members of the committee.

[44 FR 28781, May 17, 1979]

§ 979.126 Nomination procedures for public members.

(a) Names of candidates together with evidence of qualification for public membership on the South Texas Melon Committee shall be submitted to the committee at its business office.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member shall be made as soon as possible but not later than 90 days after the first meeting of the committee.

[44 FR 28781, May 17, 1979]

§ 979.132 Procedure.

The committee shall be authorized to meet by telephone or other means of communication. Any vote at such a meeting shall be promptly confirmed in writing by each voter. On such occasions seven affirmative votes shall be necessary to approve any action. Telephone meetings shall be called only by the Committee chairman or vice-chairman acting in his stead.

[44 FR 28781, May 17, 1979]

§ 979.152 Handling of culls.

(a) The handling of culls, i.e., melons which fail to meet the grade, size, quality or other requirements established under § 979.52(b) of this part is prohibited unless such melons are: